

**STATEMENT OF ARGUMENTS IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Claims 25 and 28-32 are not unpatentable under 35 USC §103(a) over Pacella et al. (U.S. Patent No. 3,777,989) in view of German Patent Publication DE 200 07 044 (DE '044).

Claim 25 defines, *inter alia*, at least the bottom area of the washing container having a multi-planar surface with multiple spray devices lying in different planes within the washing container. As described in the specification, the use of multiple spray channels arranged at different heights promotes a uniform spray distribution of the washing liquid in the washing container. According to the Office Action, although this subject matter is lacking in the cited references, “the location of the spray channels along a multi-planar surface is considered to be a rearrangement that can be optimized through routine experimentation, as it only requires a relocation of the previously disclosed parts of Pacella and ‘044.” Appellants respectfully disagree with this contention. The proposed modification would not only require rearrangement, but also complete restructuring of the apparatus. That is, in order to meet this feature of the invention, the Pacella and DE '044 construction would require restructuring into multiple planes and the use of multiple spray channels in the multiple planes, respectively.

Such restructuring does not amount to a mere “rearrangement that can be optimized through routine experimentation.” “Routine experimentation” relates to the discovery of optimum or workable ranges. See, for example, *In re Aller*, 220 F.2d 454 (CCPA 1955). The change from a planar surface with a spray channel to a multi-planar surface with a corresponding plurality of spray channels requires structural design modifications and retooling of fluid conduits, water sources, etc. These modifications are not merely workable ranges, but rather require significant engineering input. The proposed modifications are thus a product of improper hindsight.

In the “Response to Arguments” section in the Final Office Action, the Examiner contends that “one of ordinary skill is well aware that more spray channels located in different areas will provide a greater cleaning effect than one channel located in one

area.” Appellants do not necessarily disagree with this contention. Merely because it is observed that a greater cleaning effect can be achieved with multiple spray devices, however, does not support a conclusion that it would have been obvious to modify the structure of Pacella and/or DE ‘044. That is, neither reference even remotely provides a teaching of the manner in which the fluid conduits can be rearranged, the positioning of inputs for the water sources, the multi-plane nozzle positioning, etc.

Additionally, none of the references of record even discloses spray nozzles positioned in multiple planes. Without the benefit of Appellants’ disclosure, it is not clear from the applied references or the Office Action what teaching(s) in Pacella and DE ‘044 would lead those of ordinary skill in the art to not only use multiple spray channels, but also to arrange the multiple spray channels in multiple planes.

Appellants thus respectfully submit that the rejection of claim 25 should be withdrawn.

With regard to the dependent claims, Appellants submit that these claims are allowable at least by virtue of their dependency on an allowable independent claim and also because they recite additional patentable subject matter.

Claims 13-15, 17, 18 and 24 are not unpatentable under 35 USC §103(a) over Pacella in view of DE ‘044 and French Patent Publication 1 265 156 to Miliotis.

Independent claim 24 recites that the spraying device includes a spray cover having a substantially U-shaped cross-section, where free ends of the U-shaped spray cover are bent inward to fit the spray cover into the spray channel such that outward deflection of the free ends abuts the free ends against side walls of the spray channel. In this context, the Office Action contends that Miliotis discloses this subject matter. To the contrary, however, Miliotis does NOT disclose a manually releasable U-shaped channel with legs that fit into grooves. Rather, Miliotis discloses nozzle assemblies 4, 5 that are secured to a planar inside wall of a tank 1. See FIG. 1. The nozzles are connected to the tank 1 via devices 8, 9 (see page 2, first paragraph). Miliotis thus lacks at least the claimed free ends of a U-shaped spray cover fitting into a spray channel and the cooperative connection of the spray cover against the side walls of the spray channel.

In the “Response to Arguments,” the Examiner contends that “it appears as if the applicant is only considering Miliotis, not the combination of Pacella, ‘044, and Miliotis.” In the grounds of rejection, the Examiner acknowledges that “Pacella and ‘044 do not teach U-shaped channels.” Such channels are purportedly disclosed in Miliotis. As discussed above, however, this subject matter is also lacking in Miliotis. Claim 24 defines specific structure of the U-shaped channels, “where free ends of the U-shaped spray cover are bent inward to fit the spray cover into the spray channel such that outward deflection of the free ends abuts the free ends against side walls of the spray channel.” None of Pacella, DE ‘044 or Miliotis discloses corresponding subject matter.

Appellants thus respectfully submit that the rejection of claim 24 should be withdrawn.

With regard to the dependent claims, Appellants submit that these claims are allowable at least by virtue of their dependency on an allowable independent claim and also because they recite additional patentable subject matter.